

**BOARD OF ENVIRONMENTAL REVIEW
AGENDA ITEM
EXECUTIVE SUMMARY FOR
ADOPTION WITH AMENDMENT NEW RULES I – IX AND NEW RULE X**

AGENDA # III.B.1

AGENDA ITEM SUMMARY

The department requests that the Board adopt New Rules I through IX pertaining to new classifications and standards for ephemeral streams, seasonal and semi-permanent lakes and ponds and ditches, and New Rule X pertaining to nutrient and standing crop standards for portions of the Clark Fork River, as amended in response to comments, and adopt the proposed definitions clarifying terms used in the new rules.

LIST OF AFFECTED RULES

ARM 17.30.602 AND ARM 17.30.619

AFFECTED PARTIES SUMMARY

The proposed new rules could affect parties that will be renewing or obtaining a new MPDES permit for surface water discharges to a water body that meets the requirements of a new classification or the portions of the Clark Fork River. The new classifications and associated standards in new rules I-IX will be less stringent than the existing standards; however, existing uses and downstream uses would be protected.

The nutrient and standing crop standards for portions of the Clark Fork River may require more stringent MPDES effluent limits, because in portions of the river nutrient levels exceed the proposed standards. Because numeric nutrient standards did not exist at the time the permits were written, the new standards effect on specific dischargers is not known.

SCOPE OF PROPOSED PROCEEDING

The Department requests that the Board adopt New Rules I-IX, New Rule X and amend ARM 17.30.602 and ARM 17.30.619.

BACKGROUND

On April 11, 2002 the Board published a notice of proposed adoption and amendment of the above-stated rules and held a public hearing on May 13, 2002. The comments received and the response to those comments are attached.

Summary

See the attached response to comments.

Hearing Information

A public hearing was held on 13 May 2002 and the public comment period closed on May 20, 2002.

BOARD OPTIONS

The Board may:

1. Adopt the rules as amended to reflect the suggestions received during the public comment period.
2. Adopt the rules as originally noticed; or
3. Decline to adopt the rules.

DEQ RECOMMENDATION

The Department recommends that the Board adopt the rules cited above with the changes recommended during the public comment period.

ENCLOSURES

The following information is attached to this summary:

- 1) The department's response to comments.
- 2) Recommended changes to New Rules I-IX and New Rule X.